

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

TRI-STATE SURGICAL SUPPLY &
EQUIPMENT, LTD.,

Plaintiff,

-against-

LIBERTY MUTUAL FIRE INSURANCE
COMPANY,

Defendant.

Civil Action No.

Removed from:

Supreme Court of the State of New York,
County of Kings

Index No. 510080/2014

NOTICE OF REMOVAL

TO: Douglas C. Palmer, Clerk of the Court
United States District Court
for the Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Ira S. Lipsius, Esq.
Alexander J. Sperber, Esq.
LIPSIUS-BENHAIM LAW LLP
Attorneys for Plaintiff
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Kew Gardens, NY 11415

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1332 and 1441, Defendant Liberty Mutual Fire Insurance Company ("Defendant"), by its undersigned attorneys, Finazzo Cossolini O'Leary Meola & Hager LLC, hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Supreme Court of the State of New York, County of Kings, to the United States District Court for the Eastern District of New York. The grounds for removal are as follows:

1. On or about October 28, 2014, Plaintiff Tri-State Surgical Supply & Equipment, Ltd. ("Plaintiff") commenced an action seeking damages from Defendant in the Supreme Court

of the State of New York, County of Kings, Index No. 510080/2014, by filing a Summons and Complaint.

2. On November 7, 2014, Plaintiff served Defendant with the Summons and Complaint by service through the New York Department of Financial Services (“DFS”) on Corporation Service Company (“CSC”), Defendant’s agent for service of process. Service of process on CSC was Defendant’s first notice of the initiation of suit against it.

3. Accordingly, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446 as it is filed within 30 days after receipt by the Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which the action or proceeding is based.

4. Attached hereto as Exhibit A are copies of all process, pleadings and orders served upon Defendant in the state court action, consisting at this time of: (a) Notice of Service of Process from CSC and transmittal from DFS to CSC of the Summons and Complaint; (b) Summons dated October 28, 2014; and (c) Complaint dated October 28, 2014.

5. This is a civil action of which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. Plaintiff is a New York corporation with its principal place of business at 409 Hoyt Street, Brooklyn, New York. Accordingly, Plaintiff is a citizen of New York.

7. Defendant is a Wisconsin corporation with its principal place of business at 175 Berkeley Street, Boston, Massachusetts. Accordingly, Defendant is a citizen of Wisconsin and Massachusetts.

8. There is complete diversity of citizenship between the parties hereto, thereby satisfying the diversity of citizenship requirement of 28 U.S.C. § 1332.

9. As set forth in the *ad damnum* clause of the Complaint, Plaintiff seeks damages in the sum of at least \$500,000.00, together with interest, costs and disbursements. Accordingly, the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, thereby satisfying the amount in controversy requirement of 28 U.S.C. § 1332.

10. Defendant will promptly serve a copy of this Notice of Removal on counsel for Plaintiff, and will file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of Kings, pursuant to 28 U.S.C. §1446(d).

WHEREFORE, Defendant Liberty Mutual Fire Insurance Company, under 28 U.S.C. §§ 1332 and 1441, removes this action in its entirety from the Supreme Court of the State of New York, County of Kings, to the United States District Court for the Eastern District of New York.

**FINAZZO COSSOLINI O'LEARY
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By: 

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Dated: November 19, 2014